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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,782	02/13/2002	Manoharprasad K. Rao	201-0634 FAM	9496
28549	7590	08/12/2003		
KEVIN G. MIERZWA ARTZ & ARTZ, P.C. 28333 TELEGRAPH ROAD, SUITE 250 SOUTHFIELD, MI 48034			EXAMINER PREVIL, DANIEL	
			ART UNIT 2636	PAPER NUMBER 5
			DATE MAILED: 08/12/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/683,782	RAO ET AL.
	Examiner Daniel Previl	Art Unit 2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 May 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-17 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

This action is responsive to communication filed on May 29, 2003.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Cho (US 5,959,552).

Regarding claim 1, Cho discloses a vision system (radar 12) for generating an object size signal (small object 50 in the rear of the vehicle 10) (col. 11, lines 44-47); and object distance signal (each radar 12 transmits distance data of any obstacle in the ranges of distance in meters from the unit) (col. 12, lines 51-54); a controller (CPU 18) coupled to the vision system (radar 12) for deploying either first countermeasure (brake) in response to object distance signal and object signal (the cpu 18 generates control signals 86 to the intelligent cruise control system 76 to change speed of the roadway vehicle, accelerate or brake the vehicle according to the speed of the obstacle) (col. 12, lines 51-67; col. 13, lines 1-11).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shirai (US 6,018,308) in view of Miller et al. (US 6,442,484).

Regarding claim 1, Shirai discloses a vision system (radar unit) for generating object size signal (obstacle height) and an object distance signal (obstacle distance) (col. 2, lines 6-24).

Shirai fails to explicitly disclose a controller coupled to vision system for deploying either first countermeasure or first or second countermeasures in response to object distance signal and object size signal.

However, Miller discloses a controller 12 coupled to radar sensor 29 for deploying first counter measure in response to distance signal (display and warning indicators configured to a countermeasure to indicate to the operator a counter is being activated because of the distance from the vehicle) (fig. 1; col. 5, lines 5-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Miller in Shirai.

Doing so would inform accurately the driver to take appropriate measure to avoid accident which may lead to property damage and personal injury.

2. Claims 2-6, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shirai in view of Miller and further in view of Kinoshita et al. (US 6,114,951).

Regarding claim 2, the above combination discloses all the limitations in claim 1 but fails to explicitly disclose a stereo pair of cameras.

However, Kinoshita discloses a pair of stereoscopic pictures taken by the stereoscopic optical system 10) (col. 2, lines 41-65).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Kinoshita in Shirai and Miller. Doing so would be able to take an extensive view of objects ahead of the preceding vehicle as well as ahead of the self vehicle to avoid accident which may lead to personal injury and property damage.

Regarding claims 3-4, Shirai discloses object size comprises object area and object height (col. 2, lines 15-24).

Regarding claim 5, the above combination discloses all the limitation 1 and Miller further discloses a vehicle speed sensor corresponding to the longitudinal speed of the vehicle wherein controller activates countermeasure system in response to the speed (col. 4, lines 3-27). Same motivation as claim 1.

Regarding claim 6, Shirai discloses a decision zone (detectable zone) wherein radar detects an object and generates an object distance signal from an object within the detectable zone (col. 6-14).

3. Claims 7-11, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shirai in view of Miller.

Regarding claims 7-11, Shirai discloses the step of establishing a decision zone relative to the vehicle (detectable zone) (col. 2, lines 6-14); detecting an object within the decision zone using a vision system (radar unit transmitting an obstacle signal in the detectable zone) (col. 2, lines 6-14); determining an object distance and relative velocity using a vision system (col. 2, lines 6-35col. 4, lines 25-45); determining an object size (height of the obstacle) (col. 2, lines 15-24).

Shirai discloses all the limitations in claim 7 but fails to explicitly discloses the step of activating a countermeasure in response in response to the object size and relative velocity.

However, Miller discloses the step of activating a countermeasure in response in response to the object size and relative velocity (countermeasure is being activated related to the vehicle or object) (col. 5, lines 5-15; col. 4, lines 3-27).

4. Claims 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shirai in view of Miller and further in view of Kinoshita et al. (US 6,114,951).

Regarding claim 12, the above combination discloses all the limitations in claim 1 but fails to explicitly disclose a stereo pair of cameras.

However, Kinoshita discloses a pair of stereoscopic pictures taken by the stereoscopic optical system 10) (col. 2, lines 41-65).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Kinoshita in Shirai and Miller. Doing so would be able to take an extensive view of objects ahead of the preceding vehicle as well as ahead of the self vehicle to avoid accident which may lead to personal injury and property damage.

Regarding claim 13, the above combination discloses all the limitations in claim 6 and Miller further discloses a first countermeasure 40 and a second countermeasure 36) (fig. 1).

Regarding claim 14, the above combination discloses all the limitation in claim 12 and Miller discloses vehicle orientation (vehicles are traveling in different planes) wherein activating the countermeasure system in response to the object size and vehicle orientation (col. 5, lines 5-67).

Regarding claim 15, Shirai discloses detectable zone 81 in front of the vehicle (fig. 3).

Regarding claim 16, the above combination discloses all the limitations in claim 12 and Miller further discloses activating a countermeasure in response to detecting an object within the decision zone (col. 5, lines 5-67).

Regarding claim 17, the above combination discloses all the limitation in claim 7 and Miller further discloses countermeasure system 40 comprises airbag and belt pretensioning (fig. 1; col. 1, lines 37-43).

### ***Response to Arguments***

5. Applicant's arguments filed on May 29, 2003 have been fully considered but they are not persuasive.

According to Applicant's arguments on page 2 " Cho does not teach or suggest a vision system, having one or more cameras, that is used to detect object size, as does the present invention" The examiner wants to remind the Applicant that claim 1 is directed to a "vision system generating an object size signal and an object distance signal and a controller coupled to the vision system". So Cho discloses a radar system as admitted by the Applicant which is a vision system that can detect a small object 50 which is inherently included object size (col. 11, lines 44-47). In addition, Cho discloses the step of inflating or deploy air bag to prevent injury if the situation is imminent (col. 12, lines 31-45).

It is clear that Cho discloses every element of claim 1.

According to Applicant's argument on page 3 "Shirai does not teach or suggest a vision system". The examiner strongly disagrees with the Applicant because Shirai discloses a radar unit (abstract) which is clearly a vision system according to the Applicant's specification.

Contrary to Applicant's argument; Miller discloses a controller 12 coupled to radar sensor 20 (fig. 1; col. 3, lines 1-15). Moreover, Miller discloses a proximity detector 42 that is used to determine various vehicles around automotive vehicle 11 (col. 3, lines 26-34) which is inherently included object size.

In response to Applicant's argument that there is no suggestion to combine the references, the examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA ) 1969. In this case the combination of Shirai and Miller is proper because it discloses the claimed invention.

For at least the above reason, the rejection of claims 1-17 is sustained.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Miller et al. (US 6,480,102) discloses a method and apparatus for activating a crash countermeasure in response to the road condition.

Adolph et al. (US 5,785,347) discloses an occupant sensing and crash behavior system.

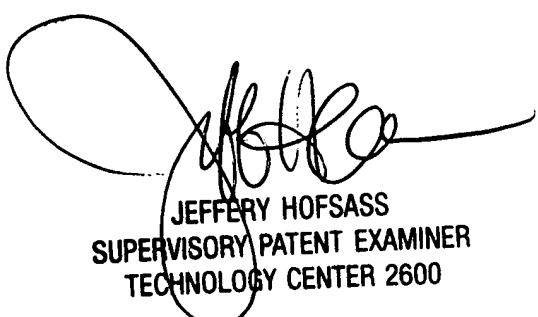
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Previl whose telephone number is 703 305-1028. The examiner can normally be reached on Monday-Thursday. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass can be reached on 703 305 4717. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9314 for regular communications and 703 872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-4700.

Daniel Previl  
Examiner  
Art Unit 2632

DP  
July 28, 2003



JEFFERY HOFSSASS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600